

Remarks

Claims 15-19, 33, 35-37, 39-49, and 51-60 are pending. No claims are added or cancelled. Claims 15, 33, 40, and 51 have been amended. Support for the claim amendments is discussed in Section I, below. No new matter is added by these amendments. Reconsideration and withdrawal of the outstanding rejections is requested in view of the following remarks.

I. Rejection Under 35 U.S.C. § 112, ¶ 2

The Office action states that claims 15-19, 33, 35-37, 39-49, and 51-60 are indefinite under 35 U.S.C. § 112, ¶2. Applicants traverse there rejections and request that they be withdrawn.

In particular, the Office asserts that the claims are indefinite because the Office considers that they provide that the presence of soluble PGA, at any level, indicates bacterial infection by a PGA-producing pathogen. Without conceding the correctness of this assertion, Applicants note that independent claims 15, 33, 40, and 51 have been amended.

Claims 15, 40, and 51 have been amended to recite detecting a level of soluble PGA in a sample and comparing the detected level to a reference value, wherein bacterial infection by a PGA-producing pathogen is indicated if the detected level exceeds the reference value.

Claim 33 has been amended to specify that it relates to a diagnostic method that includes measuring a level of soluble PGA in a biological sample from a vertebrate suspected of having been infected by a PGA-producing pathogen. Claim 33 does not recite determining the condition of the subject based on the measured level, and therefore the Office's concern about what result indicates bacterial infection is believed to be moot.

Support for these amendments can be found, among other places, at paragraphs 18, 44, and 92-94 of the originally filed specification. Claims 15, 33, 40, and 51, as amended, are believed to be fully supported by the specification and to be readily understandable by those of ordinary skill in the art.

For at least the reasons set forth above, Applicants respectfully assert that claims 15, 33, 40, and 51, and therefore claims 16-19, 35-37, 39, 41-49, and 52-60 by dependence, are definite. Applicants therefore request that the § 112, ¶ 2, rejections of claims 15-19, 33, 35-37, 39-49, and 51-60 be withdrawn.

II. Conclusion

Applicants submit that the present application is in condition for allowance. If the Examiner has any questions regarding the application or this response, the Examiner is encouraged to call Applicants' attorney, Ryan A. Heck, at (775) 784-8228.

Respectfully submitted,

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